

01-10-00

af1643



EXPRESS MAIL CERTIFICATE

Date: January 7, 2000 Label No. EM167 120 935US

I hereby certify that, on the date indicated above I deposited this paper or fee with the U.S. Postal Service and that it was addressed for delivery to the Assistant Commissioner for Patents, Washington, DC 20231 by "Express Mail Post Office to Addressee" service.

A. David Joran  
Registration No. 37,858

Signature

JAN 14 2000  
TECH CENTER 1600/2900  
#4

Atty. Dkt. No. 0973/0003

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of  
Michael SEUL and Richard H. EBRIGHT

Serial No.: 09/448,420 Group Art Unit: 1643

Filed: November 23, 1999

For: COLOR-ENCODING AND IN-SITU INTERROGATION OF MATRIX-COUPLED  
CHEMICAL COMPOUNDS

---

Assistant Commissioner for Patents  
Washington, D.C. 20231

ATTN: Special Program Examiner

Sir:

**PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d)**  
**AND M.P.E.P. §708.02(VIII)**

Applicants hereby petition the Commissioner to make special and accelerate the prosecution of the above-identified patent application in accordance with the provisions of 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII). The fee required pursuant to 37 C.F.R. §§1.102(d) and 1.17(i) is one hundred thirty dollars (\$130.00). A check in payment of this fee is enclosed herewith.

01/12/2000 RSHIFERA 00000132 09448420

01 FC:122

130.00 0P

Contingent upon the granting of special status in accord with this Petition, applicants submit herewith a Supplemental Preliminary Amendment (Exhibit 1) which cancels pending claims 1-16, 18, 22, 24, 30-35, 37-55, 57, 61, 67-71 and 73. As a result, claims 17, 19-21, 23, 25-29, 36, 56, 58-60, 62-66 and 72 would remain pending and under examination in the subject application. These surviving claims are believed to be directed to a single invention, pursuant to M.P.E.P. §708.02(VIII)(B). In the alternative, in the event that the Examiner in charge of the subject application deems the claims pending after the stated contingent amendment to be directed to more than a single invention, applicants will agree to make an election without traverse to elect a single inventive group for examination.

Pursuant to M.P.E.P. §708.02(VIII)(C), a pre-examination search has been conducted for the subject application by the U.S. Patent and Trademark Office in the capacity of an International Searching Authority (ISA/US). A copy of the search report is submitted herewith as Exhibit 2. As listed in Exhibit 2, the U.S. classes and subclasses searched were 435/4, 6, 7.1, 7.8, 808, 968, 973; 436/501, 518, 546, 164, 172, 800, 805, 807, and the references cited by the ISA/US in the International Search Report include:

1. U.S. Patent No. 5,770,455 (Cargill *et al.*);
2. U.S. Patent No. 5,565,324 (Still *et al.*);
3. PCT International Publication No. WO93/06121 (Affymax Technologies N.V.);
4. Gordon *et al.*, "Applications of Combinatorial Technologies to Drug Discovery."
2. Combinatorial Organic Synthesis, Library Screening Strategies, and Future Directions," *J. Med. Chem.*, 37, 1385-1401 (1994); and
5. Nielsen *et al.*, "Solid-Phase Synthesis of Small Molecule Libraries using Double Combinatorial Chemistry," *Tetrahedron Lett.*, 38, 2011-2014 (1997).

Pursuant to M.P.E.P. §708.02(VIII)(D), copies of the references cited in Exhibit 2 are attached as Exhibits 3-7.

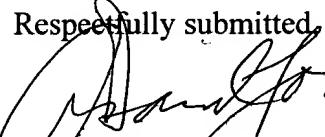
Pursuant to M.P.E.P. §708.02(VIII)(E), a detailed discussion of the references was provided in the Amendment Under Article 34, a copy of which is submitted herewith as Exhibit 8, and in the International Preliminary Examination Report issued by the U.S. Patent and Trademark Office in the capacity of an International Preliminary Examining Authority

(IPEA/US), a copy of which is submitted herewith as Exhibit 9. It is noted that the claims pending after entry of the Supplemental Preliminary Amendment, *i.e.*, claims 17, 19-21, 23, 25-29, 36, 56, 58-60, 62-66 and 72, were deemed to meet the requirements for novelty, inventive step and industrial applicability under the Patent Cooperation Treaty. (PCT Articles 33(2)-(4))

Accordingly, in view of the above, applicants respectfully submit that all requirements for accelerated examination of the subject application have been satisfied, and therefore, this Petition to Make Special should be granted. Applicants hereby request an opportunity to perfect this Petition in a renewed Petition should any prerequisite to special status be deemed not fully satisfied in any respect by the contents of this Petition. If a telephone interview would be of assistance in advancing the review of this Petition, applicants' undersigned attorney invites the Special Program Examiner to telephone him at the number provided.

No fee, other than the fee under 37 CFR §1.17(i), is believed necessary in connection with the filing of this Petition. However, if any additional fee is otherwise deemed required, authorization is hereby given to charge the amount of such fee to Deposit Account 50-0540.

Respectfully submitted,

  
A. David Joran  
Registration No. 37,858  
Attorney for Applicants

KRAMER, LEVIN, NAFTALIS & FRANKEL LLP  
919 Third Avenue  
New York, N.Y. 10022  
Telephone: (212) 715-9100  
Facsimile: (212) 715-8000